

**R865. Tax Commission, Auditing.**

**R865-4D. Special Fuel Tax.**

**R865-4D-2. Refund Procedures for Special Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Section 59-13-301.**

(1) (a) “Off-highway,” for purposes of determining whether special fuel is used in a vehicle off-highway, means every way or place, of whatever nature, that is not generally open to the use of the public for the purpose of vehicular travel.

(b) “Off-highway” does not include:

- (i) a parking lot that the public may use; or
- (ii) the curbside of a highway.

(2) Fuel used in a vehicle off-highway is calculated by taking off-highway miles divided by the average number of miles per gallon. Any other method of calculating special fuel used off-highway must be supported by on-board computer information or other information that shows the number of gallons used off-highway with accuracy equal or comparable to on-board computers.

(3) Where a power take-off unit is driven by the main engine of the vehicle and used to operate auxiliary equipment, a quantity, as enumerated below, of the total special fuel delivered into the service tank of the vehicle shall be deemed to be used to operate the power take-off unit. The allowances for power take-off units are as follows:

- (a) concrete mixer trucks - 20 percent;
- (b) garbage trucks with trash compactor - 20 percent;
- (c) vehicles with powered pumps, conveyors or other loading or unloading devices may be individually negotiated but shall not exceed:
  - (i) 3/4 gallon per 1000 gallons pumped; or
  - (ii) 3/4 gallon per 6000 pounds of commodities, such as coal, grain, and potatoes, loaded or unloaded.

(d) Any other method of calculating the amount of special fuel used to operate a power take-off unit must be supported by documentation and records, including on-board computer printouts or other logs showing daily power take-off activity, that establish the actual amount of power take-off activity and fuel consumption.

(4) Allowances provided for in Subsections (2) and (3) will be recognized only if adequate records are maintained to support the amount claimed.

(5) In the case of users filing form TC-922, Fuel Tax Return For International Fuel Tax Agreement (IFTA) And Special Fuel User Tax, or form TC-922C, Refund of Tax Paid on Exempt Fuel for Non-Utah Based Carriers, the allowance provided for in Subsection will be refunded to the extent total gallons allocated to Utah through IFTA exceed the actual taxable gallons used in Utah, except that in no case will refunds be allowed for power take-off use that does not occur in Utah.

(6) Special fuel used on-highway for the purpose of idling a vehicle does not qualify for a refund on special fuel tax paid since the fuel is used in the operation of a motor vehicle.

(7) The following documentation must accompany a refund request for special fuel tax paid on special fuel used in a vehicle off-highway:

- (a) evidence that clearly indicates that the special fuel was used in a vehicle off-highway;
  - (b)(i) the specific address of the off-highway use with a description that is adequate to verify that the location is off-highway; or
  - (ii) if a specific address is not available, a description of the off-highway location that is adequate to verify that the location is off-highway;
  - (c) a description of how the vehicle was used off-highway;
  - (d)(i) the date of the off-highway use; and
  - (ii) if the claimed use is idling while off-highway, the amount of time the vehicle was idling at that location;
  - (e) the amount of fuel the vehicle used off-highway; and
  - (f) the make and model, weight, and miles per gallon of the vehicle used off-highway.
- (8) Special fuel that is purchased exempt from the special fuel tax or for which the special fuel tax has been refunded is subject to sales and use tax, unless specifically exempted under the sales and use tax statutes.

**KEY: taxation, fuel, special fuel**

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